

LYNCH, J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ECF CASE
08 CV 3444 (GEL)

NIPPON YUSEN KAISHA a.k.a. NYK LINE,

Plaintiff,

- against -

McDONOUGH INDUSTRIES LLC a.k.a.
McDONOUGH INDUSTRIES LLC USA and
LAWRENCE McDONOUGH.,

Defendants.

EX PARTE ORDER FOR PROCESS OF
MARITIME ATTACHMENT AND
GARNISHMENT

**USDC SDNY
DOCUMENT
ELECTRONICALLY FILED**
DOC #:
DATE FILED: 04-09-08

WHEREAS, on April 8, 2008. Plaintiff filed a Verified Complaint herein for damages against all of the defendants, which, together with interest, costs and contractual attorneys' fees, plaintiff estimates to be \$1,300,000.00, and praying for the issuance of Process of Maritime Attachment and Garnishment pursuant to Rule B of the Supplemental Admiralty Rules for Certain Admiralty and Maritime Claims of the Federal Rules and Civil Procedure; and

WHEREAS, the Process of Maritime Attachment and Garnishment would command that the United States Marshal or other designated process server attach any and all of the property of the defendant, McDONOUGH INDUSTRIES LLC a.k.a. McDONOUGH INDUSTRIES LLC USA, within the District of this Court; and

WHEREAS, the Court has reviewed the Verified Complaint and the supporting declaration, and the conditions of Supplemental Admiralty Rule B appearing to exist, it is hereby

ORDERED, that Process of Maritime Attachment and Garnishment shall issue against all tangible or intangible property belonging to, claimed by or being held for one or more of defendant, McDONOUGH INDUSTRIES LLC a.k.a. McDONOUGH INDUSTRIES LLC USA, by any

garnishees within this District to be named in the process, in an amount up to and including the amount of \$1,300,000, that amount being a good faith estimates of plaintiff's claim including interests, costs, and reasonable attorneys' fees, pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure; and it is further

ORDERED, that any person claiming an interest in the property attached or garnished pursuant to said order shall, upon application to the Court, be entitled to a prompt hearing at which the Plaintiff shall be required to show cause why the attachment and garnishment should not be vacated or other relief granted; and it is further

ORDERED, that supplemental process enforcing the Court's Order may be issued by the Clerk upon application without further Order of the Court; and it is further

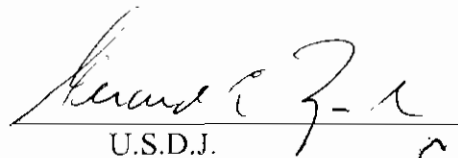
ORDERED, that following initial service by the United States Marshal or other designated process server upon each garnishee, that supplemental service of the Process of Maritime Attachment and Garnishment, as well as this Order, may be made by way of facsimile transmission to any garnishee that advises Plaintiff that it consents to such service; and it is further

ORDERED, that service on any garnishee as described above is deemed effective continuous service throughout that day from the time of such service through the opening of the garnishee's business the next business day; and it is further

ORDERED, that pursuant to Federal Rule of Civil Procedure 5(b)(2)(D) each garnishee may consent, in writing, to accept service by any other means; and it is further

ORDERED, that a copy of this Order be attached to and served with said Process of Maritime Attachment and Garnishment.

Dated: New York, New York, April 9, 2008


U.S.D.J.